

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-8094**

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JAMES FRANKLIN PIPES,

Petitioner - Appellant,

v.

THOMAS MCBRIDE, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Elkins. Robert E. Maxwell, Senior  
District Judge. (2:05-cv-00058-REM-JSK)

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Submitted: December 16, 2008

Decided: December 29, 2008

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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James Franklin Pipes, Appellant Pro Se. Dawn Ellen Warfield,  
Deputy Attorney General, Charleston, West Virginia, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Franklin Pipes appeals the district court's order adopting in part, vacating in part, and remanding for further consideration the magistrate judge's recommendation to dismiss Pipes' petition for a writ of habeas corpus brought under 28 U.S.C. § 2254 (2000). This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Pipes seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED